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UNCLAS SECTION 01 OF 03 PHNOM PENH 000514

SENSITIVE
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TAGS: [PGOV](#) [PHUM](#) [PREL](#) [KJUS](#) [KWMN](#) [CB](#)
SUBJECT: MU SOCHUA DEFENDS HERSELF; NO VERDICT UNTIL AUGUST
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REF: A. PHNOM PENH 492
[1](#)B. PHNOM PENH 413 AND PREVIOUS

SENSITIVE BUT UNCLASSIFIED

[1](#)1. (SBU) SUMMARY: Mu Sochua appeared July 24 before the Phnom Penh Municipal Court to defend herself against the Prime Minister's defamation allegations. Over 100 observers packed the small court room, including the Ambassador and representatives of several Embassies, Cambodian human rights NGOs, and journalists. The prosecutor and the Prime Minister's personal lawyer, Ky Tech, alleged that Mu Sochua knowingly intended to insult the Prime Minister during her April 23 press conference. Mu Sochua defended herself with an appeal for justice on behalf of all Cambodia's women. The judge recessed the hearing and the crowd dispersed; then, in an atypical move, the judge announced to a nearly empty courtroom that no verdict would be announced until August 4 at 8:00 a.m.

International Attention

[1](#)2. (SBU) Ambassador Rodley attended the hearing to demonstrate U.S. interest in the Royal Government of Cambodia's (RGC) recent actions constricting freedom of expression, and in particular a case involving an American citizen. She was joined by Ambassador Frank Mann of Germany and British Charge D'Affaires Elizabeth Evans. The Australian and Danish missions sent political officers to the hearing, as did the United Nations Office of the High Commission on Human Rights. The Inter-Parliamentary Union (IPU), a Geneva-based membership organization of parliaments and parliamentarians, appointed Franklin Drilon, the former president of the Philippines Senate, as a delegate to observe the hearing.

[1](#)3. (SBU) The Sam Rainsy Party (SRP) turned out in force to support their member, including party president Sam Rainsy. Over 30 SRP members and their supporters crowded into the already packed courtroom at exactly 8:00 a.m., holding lit candles overhead as they entered. A small scuffle broke out when police first tried to prevent SRP members from bringing the lit candles into the courtroom and then barred the entry of additional supporters trying to squeeze into the chamber. Several Cambodian NGOs came in large numbers to view the hearing, including the Cambodian League for the Promotion and Defense of Human Rights (LICADHO), the Cambodian Human Rights and Development Association (ADHOC), and the Cambodian Center for Human Rights (CCHR).

Representing Herself

[1](#)4. (SBU) As stated in several local media reports before the

hearing, Mu Sochua represented herself during the hearing. Judge Sem Sakola began the hearing by reading Mu Sochua her rights. When she reached the part about the right to an attorney, Mu Sochua announced that she had no lawyer because the government had persecuted her lawyer to the point where he was forced to resign. Mu said she had tried but failed to find another lawyer, because no one was willing to take her case.

15. (SBU) The judge responded to Mu Sochua's complaint by pointing out that the defamation charge is considered a misdemeanor, since it carries no prison penalties; therefore, under Article 301 of the Cambodian Criminal Procedure Code, the court bears no obligation to provide Mu Sochua with a lawyer if she cannot find her own. At the court's invitation, Ky Tech noted that there were more than 600 lawyers in Cambodia, and that Mu Sochua had more than enough time to find a new lawyer after her previous attorney withdrew from the case on July 8. He and the prosecutor also both denied that Mu's previous lawyer, Kang Sam Onn, had been persecuted or threatened in any way. (NOTE: These comments appeared designed to deflect any potential criticism that the hearing should be delayed until Mu Sochua could find new representation. END NOTE.)

16. (SBU) Mu Sochua subsequently declined to answer any questions from the judge or prosecutor. The judge continued to ask Mu to confirm testimony given to the prosecutor in June with her lawyer present and statements made in public, but Mu refused. The judge also reminded Mu that she had the right to request a new judge, if Mu felt Judge Sem Sakola was not treating the case fairly. Mu did not avail herself of

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this opportunity, and told Judge Sem to continue presiding over the case.

Intentionally Insulting

17. (SBU) Both the prosecutor, Sok Kalyan, and Ky Tech alleged that Mu Sochua purposefully intended to defame the Prime Minister during her April 23 press conference. Ky Tech narrated a long list of reasons why Mu Sochua had knowingly insulted the Prime Minister. He stated that although Mu Sochua claimed the Prime Minister had injured her reputation, she had only requested 500 Riel (approximately 12 cents USD) in compensation, which he considered insufficient to back up Mu Sochua's claim that her honor had been tarnished. He noted that Mu Sochua continually expanded the Prime Minister's April 4 comments to encompass all Cambodian women, claiming that Mu was attempting to make Cambodia's women "hate" the Prime Minister. In this context, he also used the word "incitement" (NOTE: a much more serious charge than defamation. END NOTE.). He also pointed out that Kang Sam Onn apologized in writing to the Prime Minister, admitting he made a mistake in representing Mu's case, which Ky Tech claimed meant by extension Mu Sochua was also wrong. The prosecutor added that Mu's efforts to attract public support for her case, from international women's organizations and from the IPU, were further attempts to damage the Prime Minister's and Cambodia's reputation both nationally and internationally.

Evidence?

18. (SBU) If either side, during the preliminary submissions of briefs, had offered evidence on the question of knowledge or intent -- to support or refute the claim that Mu negligently or intentionally defamed the Prime Minister -- its placement in the case file was not indicated during the hearing. With Mu Sochua refusing to answer questions, or even acknowledge her prior statements to the court, the judge

had Mu's June 3 statement to court investigators read into the transcript of the day's hearing, along with that of Kang Sam Onn. When Mu refused to answer a question about how the Prime Minister's April 4 speech had affected her honor, the judge permitted a video of the April 23 press conference to be played in court. The court clerk also read several letters into the court record, including Kang Sam Onn's letter of apology to the Prime Minister. Conspicuously missing from the hearing was any version of the Prime Minister's April 4 speech, or his June 8 statement to prosecutors during questioning in his office at the Council of Ministers. (NOTE: The full case file is confidential, so while these documents may be part of the file the judge reviews, they will not become part of the public record. END NOTE.)

Final Statements

¶9. (SBU) The prosecutor concluded his arguments by asking the judge to consider the evidence against Mu Sochua under Article 63 on defamation, one of the provisions dating back to the UN Transitional Authority in Cambodia (UNTAC). He also asked that the verdict be released publicly, and that the judge require publication and posting of the verdict in newspapers and media sources, and that all legal costs be at the defendant's expense. Article 63 of the UNTAC Code permits these charges, if the defendant is found guilty, up to 10 million Riel (approximately \$2,500 USD), in addition to any fine.

¶10. (SBU) Judge Sem then invited Mu Sochua to provide her closing argument. Mu repeatedly stated that she "is a woman...a Khmer woman...who only wants justice." She mentioned being happy to learn, from the court summons letter, that the judge in the case would be a woman, and appealed directly to Judge Sem as a fellow educated Cambodian woman to provide justice. Mu turned frequently to face the audience, and was reminded by the judge to address comments to the court, though Mu continued to toss comments over her shoulder directed at the many observers present in the courtroom. She announced that she was representing all the female parliamentarians present, and ultimately all Cambodian women in this case, ending with a final plea for justice and dignity.

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¶11. (SBU) As the hearing ended, the judge initially stated she would hear the next case on her docket, then was interrupted as dozens of people noisily exited the courtroom. Outside the courtroom, a scrum of reporters immediately surrounded Mu Sochua and others, loudly shouting questions. The judge appeared to consider for a few minutes, then told the nearly empty courtroom that she would postpone hearing the third case and that a verdict in Mu's case would be announced August 4 at 8:00 a.m. (NOTE: It's common for judges to hear all the cases in the morning docket, then deliver a verdict in all cases at the same time, before breaking for lunch. END NOTE.)

NGO Reaction

¶12. (SBU) Following the hearing, Poloff consulted a few of the NGOs present to assess immediate reaction to the hearing. LICADHO stated that the most important issue is that a group, or in this case a person, was unable to secure a lawyer without being subjected to undue pressure by the government. LICADHO's Director said the procedural errors in the trial were minimal, but that the prosecution failed in the hearing to provide any evidence of their charges. She also mentioned Ky Tech's use of the word "incitement," voicing concern that the judge may try to add that charge

against Mu Sochua before the verdict is issued. Going forward, the Director said LICADHO would be concerned with the implications of a potential guilty finding on Mu Sochua's ability to regain her parliamentary immunity, or continue her work as an MP. (NOTE: Restoration of immunity requires a National Assembly vote. The Prime Minister is already on the record stating it would "be very hard" to restore Mu Sochua's immunity in a CPP-controlled National Assembly because others in the CPP were against such a move. END NOTE.)

¶13. (SBU) CCHR's president, Ou Virak, said he was surprised by the judge's decision to delay issuing a verdict, calling it "very unusual." He believed the delay was an indication that the judge wanted time for political consultation before making a decision. He stated that the prosecution's arguments were quite weak, and "without legal merit." He, too, mentioned the possibility of the incitement charge being added, but thought it would be difficult for the judge to justify that move, since she did not specifically state she wanted more time to consider additional charges.

COMMENT

¶14. (SBU) The July 24 hearing was as much political theater as it was judicial exercise, as evidenced by the SRP drama with the candles. The defamation charge under Article 63 is very broadly defined (see PHNOM PENH 273). Nonetheless, the prosecution failed to provide any evidence of negligence or malicious intent, at least at the hearing. Ky Tech's statements insinuated intent only. The defense missed a real opportunity, though, by playing up the political and failing to refute the charges in any substantive way. By refusing to answer questions, Mu Sochua allowed the prosecution to define the case, such as it was.

¶15. (SBU) The fact that the judge chose to postpone her ruling lends credence to the belief, by NGOs and some in the international community, that many in the Cambodian judiciary lack independence and are beholden to the CPP.
RODLEY